

Uncertain Justice:

A Citizens Committee Report
on the North East Delhi Violence
2020

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Executive Summary



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Executive Summary

North East Delhi was shaken by district-wide communal violence between February 23 and 26, 2020. 53 people were killed and hundreds injured. Homes, schools, commercial establishments, and places of worship were attacked. This report by a Citizens Committee presents issues of concern related to the violence. The composition of the Committee authoring the report is as follows:

- Justice Madan B. Lokur, former Judge of the Supreme Court (Chairperson);
- Justice A.P. Shah, former Chief Justice of the Madras and Delhi High Courts and former Chairman, Law Commission;
- Justice R.S. Sodhi, former Judge of the Delhi High Court;
- Justice Anjana Prakash, former Judge of the Patna High Court; and
- G.K. Pillai, IAS (Retd.), former Home Secretary, Government of India.

The Committee's report, organized into three parts, examines different facets of the violence from its genesis, nature, and aftermath. Part I sets the context of what was triggered by the amendments passed to the citizenship law, analyses the build-up to the violence, its trajectory, and the state's response as it unfolded. Part II assesses the role played by sections of television and social media in channeling polarized narratives before and after the violence. Part III contains a legal analysis of the Delhi Police investigations into the violence, and of larger implications of the use of the Unlawful Activities (Prevention) Act, 1967 (UAPA).

Build-Up of Hate to Drive Conflict

Polarization between communities, particularly anti-Muslim hate, was deliberately fueled in the months preceding the violence. The Muslim community was grappling with deep fears of loss of citizenship, stemming from the combined effect of the Citizenship (Amendment) Act, 2019 (CAA), passed in December 2019, with potential exclusion through the National Register of Citizens process. By mid-December 2019, nationwide protests erupted against the law. Delhi emerged as the epicenter of the anti-CAA movement with North East Delhi as the site of multiple sit-in protests.

Against this background, the campaigning for the Delhi Assembly elections gathered momentum in January. The Bharatiya Janata Party (BJP) focused its election campaign on the CAA issue, within a divisive narrative framing the anti-CAA protests as anti-national and violent. Protesters were labelled “traitors” by candidates and party leaders, such as Kapil Mishra and Anurag Thakur, at election rallies and public demonstrations. Calls for violence against the so-called “traitors”, in the form of the “*goli maaro*” (Shoot the traitors) slogan, were casually repeated, with no censure. The vilification of the protests and anti-Muslim hate was amplified by widely viewed television news channels and social media.

The Committee conducted an empirical analysis of the messaging of sections of the television media around the CAA and the protests. This focuses on episodes aired in December 2019-February 2020 of primetime shows of the six most viewed television news channels. These were Republic and Times Now (English), and Aaj Tak, Zee News, India TV, and Republic Bharat (Hindi). We also examined relevant posts on various social media platforms. The analysis reveals that the channels’ reportage of events surrounding the CAA framed the issues as “Hindus versus Muslims” with prejudice and suspicion against the Muslim community. These channels concentrated on vilifying anti-CAA protests, fanning unsubstantiated conspiracy theories, and calling for their forcible shutdown.

Hindu nationalist figures such as Yati Narsinghanand and Ragini Tiwari, as well as BJP political leaders in the fray such as Kapil Mishra, further spread hate messaging among their thousands of followers through social media platforms from December 2019.

A confluence of powerful, far-reaching voices of politicians, televised news channels, and Hindu nationalist figures emerged as drivers of the hate narrative. This Committee concludes that the prevalence of hate significantly contributed to creating a climate in which a significant section of society became receptive to incitement and calls for violence against the Muslim community.

The Face of the Violence

In response to a call for a nationwide protest, anti-CAA women protesters in the Seelampur-Jaffrabad area of North East Delhi blocked the road outside the Jaffrabad Metro Station on the night of February 22, 2020. From the morning of February 23, BJP leaders, prominently Kapil Mishra, as well as Hindu nationalist figures such as Ragini Tiwari, gave calls for mobilization and direct action against this group. At about 4 p.m. that day, Kapil Mishra delivered a speech at Maujpur Chowk close to the new anti-CAA protest site. He gave an ultimatum to the Delhi Police to “clear the roads in Jaffrabad and Chand Bagh” within 3 days, or he and his supporters would do so themselves. He was referring to the anti-CAA protests taking place in these localities. Shortly after his speech, stone pelting broke out between pro-CAA and anti-CAA groups in Maujpur and Jaffrabad. It becomes clear that the hateful content purveyed on 22-23 February was designed to incite, exhort and provoke actions of violence and these calls, thereby, appear to have acted as an immediate trigger to the break-out.

The stone pelting across the Maujpur-Jaffrabad faultline spiraled into mass violence by the morning of 24 February. Stone pelting, arson, and gun violence by mobs on both sides spread through neighborhoods across North East Delhi in the next few days. There were attacks on journalists reporting on the violence. Alleged police complicity adds another important layer to the nature of violence.

While the violence in North East Delhi first broke out against pro-CAA and anti-CAA camps, it prompted the onset of full-blown communal violence between Hindus and Muslims. The anti-Muslim hate at the root of the pre-violence build-up carried over. While mobs clashed and caused damage to each other, Muslim identity, ranging from individuals to homes, businesses, and places of worship, was targeted. This grim mix of targeted as well as generalized violence resulted in the death of 40 Muslims and 13 Hindus. This Committee concludes that the deliberate shaping of a divisive Hindu-Muslim binary, in the months preceding, finally manifested in this communally charged violence. In this attempt to alter social relations, Muslim identity and agency stand diminished. This Committee also notes the specific targeting of anti-CAA protest sites, including at Chand Bagh, Kardampuri, Jaffrabad, Mustafabad and Khajuri Khas. This suggests an effort to rein in the anti-CAA sentiment in the course of the violence.

State Failures

All stages of the February 2020 violence – the inception, occurrence and aftermath (investigation of the violence) – are characterized by a frightening undermining of democratic values. Tragically, the communal polarization that heralded the violence has been hardened by state responses to the violence.

Delhi Police

The Delhi Police failed to take punitive measures against hate speeches made by political leaders and others in the run-up to February 23 or on the day itself. Allegations of police assisting mobs and participating in attacks on Muslims, anti-CAA protest sites, and mosques have been documented, in eyewitness, media and affected persons’ accounts. The Committee has obtained a limited, but credible mass of information indicating abject police failures, including apparent police complicity, of varying degrees in the violence. This requires investigation through an independent process, possibly a court-monitored investigation.

Ministry of Home Affairs

The response of the Government of India, namely the Ministry of Home Affairs (MHA), was wholly inadequate. Despite having command over both the Delhi Police and the central paramilitary forces, the MHA failed to take effective steps to stem the spread of communal violence. Repeated assurances on February 24 and 25 by police top brass and government officials that the situation was under control did not match the visibility of violence on the ground. Though internal alerts circulated by the Delhi Police advised increased police deployment in North East Delhi on February 23 itself, official data shows that deployment rose only on 26 February. It appears that the numbers of police personnel were not increased on 24-25 February, even though the maximum number of distress calls were received by the Police Stations in North East Delhi on these days. This Committee concludes that the Central Government's failure to respond to the violence demands a serious examination. A comprehensive, independent review of the body of known intelligence, total police and other security force strength, and sequence of deployment across affected areas during the days of violence, is urgently required.

Government of Delhi

The Committee also finds that the Government of Delhi did precious little during this entire time to mediate between the communities, even with the sharp warning signs in the lead up to February 23. Recognizing that the Delhi Government's ability to control violence was impeded with the police under the Centre's political control, the Committee feels that it failed to exert the role of civic mediation and statesmanship to calm the situation. Further, the Delhi Government has failed to ensure timely and adequate relief and compensation to those affected by violence. Approval of compensation by the government and the Claims Commission is riddled with delay; where decisions have been made, there are concerns regarding the quantum of compensation not being commensurate to the harm suffered.

Delhi Police Investigations

To date, the Delhi Police has registered a total of 758 First Information Reports (FIRs) pertaining to the violence. Early in the investigations, in March 2020, the Delhi Police Special Cell registered a First Information Report, FIR No. 59/2020 (FIR 59), claiming that there was a pre-planned conspiracy to instigate the violence which involved terrorist acts, and invoked the UAPA. The Committee has looked specifically at the first chargesheet filed in FIR 59 on the alleged terrorist acts.

Allegations of Larger Conspiracy under the UAPA FIR

This Committee has carefully considered whether the criminal actions alleged in the first chargesheet filed in FIR 59 qualify as "terrorist" acts (see Chapter 8) and found no material in it substantiating the allegation that the "unity, integrity, security, economic security, or sovereignty of India" was threatened. Neither does the first chargesheet credibly canvass the proposition that persons advocating the repeal of the CAA intended to strike terror in the community. The Committee's analysis reflects that the material put forward by the Delhi Police in the chargesheet in FIR 59 does not meet the legal threshold to allege crimes of terrorism.

Further, the Committee finds that the foundation of the prosecution case – the allegation of an overarching premeditated conspiracy aimed at orchestrating communal riots – is based on unexplained, belated statements which are inherently unreliable in law. A comparison of the investigation in the Indian Penal Code (IPC) FIRs with the investigation into the same allegations in FIR 59 reveal a number of contradictions and inconsistencies. These further cast a shadow on the claims made in the first chargesheet. It is the Committee's view that if the core of the prosecution case bears the taint of tutoring and fabrication, this taint looms large over the entire investigation.

Investigations into the IPC Cases

The analysis of the investigation into IPC cases reiterate the chronic feature of belated statements, of both police and public witnesses, with no explanation of the delay, rendering them unreliable. Trial courts while granting bail in the IPC cases have also commented on the incongruity of the prosecution narrative in cases where Muslims have been accused of joining members of the Hindu community in beating Muslims. This Committee notes that the police have neglected to investigate the role played by those who made hateful

speeches (many of which amount to the crime of hate speech) and gave calls to mobilize for discharging violent acts, in close proximity to the onset of violence.

The Committee concludes that the overall direction of the investigation appears skewed. It omits to examine the connections between the outbreak of the violence with the spate of hate speeches and calls for violence. It, incongruously, subjects anti-CAA protesters to a UAPA prosecution for allegedly committing violence which ultimately targeted Muslims, and those protesting against the CAA. Only an impartial and rigorous investigation can shed light on the truth, ensure accountability, and do justice to the victims of the violence.

Unjustified Use of the UAPA

Patterns of larger use of the UAPA suggest its targeted application by the state. The law enables prolonged pre-trial custody of individuals through drawn-out investigation and exceedingly limited grounds to secure bail. UAPA accused are very often acquitted in their trials due to insufficient evidence, yet, forced to remain in custody, often for years. This ensures the legal process itself becomes *punishment*. This Committee reiterates the urgent need for a comprehensive review of the UAPA.

Need for a Commission of Inquiry

This Committee finds that a Commission of Inquiry ought to be set up for an impartial inquiry to establish the whole gamut of factors pertaining to the North East Delhi violence. It is crucial that the terms of reference and the choice of the Chairperson for the proposed Commission of Inquiry assure the affected communities of its independent and effective functioning.

Broader Takeaways

The Committee's examination of the violence in the North East District of Delhi has led us to discern broader implications impacting constitutional values and the health of democracy in India. The microcosm of an engineered anti-Muslim narrative leading to the violence signals the growing fusion of hate messaging in public discourse with the actual incidence of violence. There seems to be a deafening lack of institutional will to act against hateful content.

Sections of the media play a key role in propagating hateful narratives, illustrated in small part through the study in the report. Their audience of daily watching households, as well as their social media presence, ensures that the hateful narratives reach a very wide number. Clearly, any oversight exerted by the existing broadcasting oversight bodies pales in proportion to the channels' reach and leeway. For all of its benefits as an unregulated space for speech and expression, this precise quality of social media presents serious dangers as a carrier of rampaging hate speech and violent content. The need to regulate deeply harmful content on social media, while retaining the free space it offers, is one of the most urgent challenges of our times.

The clearing of the anti-CAA sit-in protests in North East Delhi cannot be overlooked as an isolated instance. The targeted use of UAPA also cannot be ignored as innocuous. It constitutes not only a gross abuse of the law, but represents a consistent trend of quelling dissent by invoking the tool of criminal law. The use of violence to silence protesters and the use of UAPA in the subsequent investigation has cast a chilling effect on the act of protesting itself. Such actions pose serious threat to the health of our democracy.

Capacity for empathetic thought and action to enable harmonious interactions, and most importantly, imagination to resolve conflict are essential attributes for a plural society to last in the long run. It is the Committee's view that this communal episode has set back the internal processes through which a multi-cultural society engenders calm and harmony, forging its plurality into a strength. Instead, an architecture of hate and pathways to violence have been strengthened. The communities stand depleted in their ability to heal and restore. The only way forward is for the state to act towards justice harbored in the conjoined practice of fraternity, equality and freedom.